

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

Case No. 22-cv-10881
HON. BERNARD A. FRIEDMAN
MAG. KIMBERLY G. ALTMAN

vs.

EDEN FOODS, INC.,

Defendant.

_____ /

CONSENT DECREE

The United States Equal Employment Opportunity Commission (“Commission” or “EEOC”) filed this action against Eden Foods, Inc. (hereinafter “Eden Foods”) under Title VII of the 1964 Civil Rights Act (“Title VII”). The Commission alleged that Eden Foods violated Title VII by subjecting the original Charging Party and three similarly aggrieved female employees (“Claimants”) to a sexually hostile work environment. After the EEOC’s Complaint was filed, the original Charging Party exercised her right to intervene in this action and filed her Complaint of Intervening Plaintiff under Title VII and Michigan’s Elliott-Larsen Civil Rights Act, MCL § 37.2101 *et seq.*, against Eden Foods and individual defendant, Michael Potter (collectively “Defendants”).

It is the intent of the parties that this action be resolved by this Consent Decree (“Decree”). It is the finding of this Court, made on the pleadings and the record as a whole that: 1) the Court has jurisdiction over the parties and the subject matter of this action; 2) the purpose and provisions of Title VII will be promoted by the entry of this Decree; and 3) this Decree fully and finally resolves all matters in controversy arising out of the EEOC’s complaint. Defendants deny the allegations in Plaintiff EEOC’s Complaint and the Charging Party’s Complaint. This Decree does not constitute an admission by Defendants as to the merits of the claims or any alleged liability.

Therefore. It is hereby ORDERED, ADJUDGED, AND DECREED:

NON-DISCRIMINATION

1. For the Duration of the Decree, Eden Foods and its officers, agents, employees, successors, and assigns shall not: a) subject employees to sexual harassment; b) create or maintain a sexually hostile work environment; c) fail to take prompt, remedial action to address internal complaints of sexual harassment; or d) retaliate against any employee because s/he: (i) opposes discriminatory practices made unlawful by Title VII; (ii) complains of sexual harassment or participates in an investigation or proceeding brought under Title VII.

MONETARY RELIEF

2. Within twenty-one (21) days of the entry of this Decree, Eden Foods will pay a total of one hundred eighty-two thousand five hundred dollars (\$182,500) in monetary relief to be distributed among the three Claimants. An additional amount will be paid to the original Charging Party. Under separate cover and within seven (7) days of the entry of this Decree, the Commission will provide the exact amounts to be distributed to each of the Claimants and the addresses where each payment should be sent.

3. Eden Foods will make all payments by sending checks directly to the Claimants at the addresses provided by the Commission under separate cover. Within seven (7) days after payments are made to each Claimant as specified in paragraph 2 of the Decree, Eden Foods will e-mail a copy of each check to monitoring-eeoc-indo@eeoc.gov and miles.uhlar@eeoc.gov.

TRAINING

4. Within ninety (90) days after the Court's entry of this Decree and thereafter on an annual basis for the duration of this Decree, Eden Foods will provide either in-person or live interactive-online training to all of its employees, including Eden Foods's senior management and officers, on sex discrimination, sexual harassment, and retaliation. All individuals with an ownership interest in Eden Foods who are involved in the business as of the date of this Decree is entered shall also receive

annual training for the duration of this Decree. Each training session will last at least one (1) hour. All new employees hired between trainings will receive at least one hour of training on sex discrimination, sexual harassment, and retaliation, within thirty (30) days of their first work day at Eden Foods, which may consist of a recording of a previous training required under this paragraph. All employees will sign a register when they attend the initial training and subsequent annual trainings. Eden Foods will retain each register and forward a copy containing each attendee's name, job title, department, city and state where they work, and a copy of the written training materials used to Kenneth Bird, Regional Attorney, care of Miles Uhlar, Trial Attorney, EEOC, 477 Michigan Ave., Room 865, Detroit, MI 48226 and by email to miles.uhlar@eeoc.gov and monitoring-eeoc-into@eeoc.gov. Registers shall be provided within twenty-one (21) days of the initial and each annual training. The EEOC will not make public the names of any employee(s) identified and may use the names only to determine compliance with this Decree.

REVISED HANDBOOK

5. Within ninety (90) days after the Court's entry of this Decree, Eden Foods will issue an updated policy and procedure concerning sexual harassment and retaliation. Such revised policy will be sent to the Commission's Regional Attorney via US Mail and electronic mail at the addresses listed in paragraph 4 of the Decree. The revised policy will restate the already-existing availability of a 24-hour, third-

party, anonymous hotline operated by Lighthouse (the “Hotline”), or a similar hotline. The policy will also restate that 1) reports of sexual harassment and discrimination may be made orally or in writing, and may be made anonymously to any manager or supervisor at Eden Foods, or through the Hotline; 2) such complaints will be investigated; 3) a good faith effort will be made to interview the complaining party; 4) complaints of sexual harassment or discrimination directed against any senior manager at Eden Foods will be investigated by an outside, independent third party, and 5) any provision in the handbook referencing a shortened statute of limitations for claims arising against Eden Foods must clarify that the shortened statute of limitations does not apply to any complaint an employee may make to the EEOC or the statutes the EEOC enforces.

DISSEMINATION OF HARASSMENT POLICIES AND PROCEDURES

6. The policies and procedures referenced in paragraph 5 above will be distributed to each current Eden Foods employee within one hundred (100) days of the Court’s entry of this Decree and to each new Eden Foods employee when hired.

7. For the duration of this Decree, Eden Foods shall maintain its current Hotline (or a substantially similar Hotline) to receive complaints of harassment.

8. Within ninety (90) days of the Court’s entry of this Decree, Eden Foods’s President or Executive Vice President will send an email to all employees, restating the availability of a 24-hour hotline to employees, which can be used to

anonymously report complaints of harassment or discrimination.

9. At least every one-hundred-eighty (180) days after the email sent pursuant to paragraph 8 of this Decree, Eden Foods's President or Executive Vice President will email all employees a reminder that alleged harassment or discrimination may be reported through the hotline specified in paragraph 7. Within seven (7) days of sending each email described in this paragraph, that e-mail shall be forwarded to the Commission at the e-mail addresses in paragraph number 4 above.

NOTICE POSTING

10. Within sixty (60) days after the Court's entry of this Decree, Eden Foods will post the notice appended to this Decree as Attachment A (the "Notice") in the same prominent, conspicuous, and accessible place where employee notices are posted. The Notice will remain posted for the duration of the Decree. Written confirmation that the Notice has been posted will be sent via mail and email to the addresses listed in paragraph 4 of the Decree. If the Notice becomes defaced, marred, or otherwise made unreadable, Eden Foods will post a readable copy of the Notice as soon as practicable.

REPORTING ABOUT EDEN FOODS TO THE EEOC

11. For the duration of this Decree, Eden Foods shall submit annual reports to the Commission ("Compliance Reports"), which detail Eden Foods's compliance with this Decree. The first report shall be due twelve (12) months after the Court enters

this Decree, with each subsequent report due twelve (12) months thereafter.

12. All Compliance Reports will contain the following information: (a) the name of any employee, job title, department, city and state where they work, (except for those who made an anonymous allegation) who made allegations, orally or in writing, about sexual harassment and/or retaliation in the preceding twelve months; (b) the nature of the complaint; (c) a description of Eden Foods' investigation in response to the complaint; (d) the conclusions of the investigation; (e) the corrective action taken, if any; and (f) the names and titles of the person(s) who investigated the complaint(s). The EEOC will not make public the names of any employee(s) identified and may use the name(s) only to determine compliance with this Decree. If no such complaints were made, Eden Foods will submit the required report and indicate that it did not receive any complaints during the time period the Compliance Report describes. Each Compliance Report will be submitted by mail and email to the Commission at the contact information listed in paragraph 4 of the Decree.

13. For any complaint Eden Foods receives in which an employee alleges that an employee was harassed, discriminated against, or retaliated against by any owner or senior manager of Eden Foods, Eden Foods will retain an outside, independent investigator to complete an investigation of the complaint. The identity of the investigator and the investigator's report will be sent to the Commission at the

contact information listed in paragraph 4 within thirty (30) days of completion of the report, or ninety (90) days after receiving the complaint, whichever occurs first.

DURATION

14. Absent extension, this Decree shall expire by its own terms at the end of forty- two (42) months from the date it has been entered by the Court.

DISPUTE RESOLUTION AND COMPLIANCE

15. This Court will retain jurisdiction to enforce this Decree and will have all equitable powers, including injunctive relief, to enforce all parties' obligations and rights under this Decree. Upon motion, the Court may schedule a hearing for the purpose of reviewing compliance with this Decree. The parties agree to engage in a good faith effort to resolve any dispute as to compliance with this Decree prior to seeking review by the Court, and the EEOC will give Eden Foods fourteen (14) days' notice before moving for such review.

16. If, following the Commission's motion to enforce the Decree, the Court determines that Eden Foods was non-compliant, the Court may determine an appropriate remedy. Such remedy may include fees up to Five Hundred Dollars (\$500) per day, from the day the EEOC sent notice of non-compliance to Eden Foods through the date that Eden Foods cures its non-compliance with the Decree.

IRC DEDUCTION

17. Form 1098-F. The individual who should receive the copy of the Form 1098- F if the EEOC is required to issue one is:

Name: Eden Foods,
Inc. Attn: Treasurer
701 Tecumseh Road, Clinton, MI 49236

The EEOC will follow all legal requirements if a Form 1098-F is filed and will send a copy to Eden Foods.

18. No Representation on IRC Deduction. The EEOC has made no representations regarding whether the amount paid pursuant to this Decree qualifies for the deduction under the Internal Revenue Code. The provision of the Form 1098- F by the EEOC does not mean that the requirements to claim a deduction under the Internal Revenue Code have been met.

19. Decision on IRC Deduction. Any decision about a deduction pursuant to the Internal Revenue Code will be made solely by the IRS with no input from the EEOC.

20. No Reliance on Representations Concerning Deduction. The parties are not acting in reliance on any representations made by the EEOC regarding whether the amounts paid pursuant to this Decree qualify for a deduction under the Internal Revenue Code.

MISCELLANEOUS

21. Eden Foods shall maintain a personnel file for any person who is an officer and/or employee of Defendant and for any senior manager of Defendant for the duration of this Decree, which shall contain any complaint of harassment against that senior manager or officer.

22. If any provision of this Decree is found to be unenforceable or unlawful, only the specific provision in question will be affected and the other provisions will remain in full force and effect.

23. This Decree constitutes the entire agreement and commitments of the Claimants and Eden Foods. Only the Court may modify this Decree.

24. The terms of this Decree are and shall be binding upon the present and future owners, officers, directors, employees, creditors, agents, trustees, administrators, successors, representatives, and assigns of Eden Foods.

25. Except as provided in Paragraph 16 above, each party is responsible for and will pay its own costs and attorney fees.

IT IS SO ORDERED:

Dated: August 25, 2023
Detroit, Michigan

/s/ Bernard A. Friedman
BERNARD A. FRIEDMAN
SENIOR UNITED STATES DISTRICT JUDGE

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

/s/ Miles L. Uhlar

Miles L. Uhlar (P65008)
Equal Employment Opportunity
Commission
477 Michigan Ave., Room 865
Detroit, Michigan 48226
(313) 226-4620
miles.uhlar@eeoc.gov

Date: 8/25/2023

EDEN FOODS, INC.

/s/ Deborah Brouwer

Deborah Brouwer (P34872)
Nemeth Bonnette Brouwer PC
200 Talon Ctr. Dr., Ste. 200
Detroit, MI 48207
(313) 567-5921
dbrouwer@nemethlawpc.com

Date: 8/25/2023

MICHAEL POTTER

/s/ Angela Jackson

Angela Jackson (P53930)
Hooper Hathaway, P.C.
126 S. Main St.
Ann Arbor, MI 48104
(734) 662-4426
ajackson@hooperhathaway.com

Date: 8/25/2023

Attachment A



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Indianapolis District Office

101 West Ohio Street, Suite 1900
Indianapolis, IN 46204-4203
(800) 669-4000; TTY (800) 669-6820
FAX (317) 226-7953 & 5571
www.eeoc.gov

NOTICE OF DECREE BETWEEN THE EEOC AND EDEN FOODS
REGARDING SEXUAL HARASSMENT IN THE WORKPLACE

Harassment is a form of employment discrimination that violates federal law. It is unlawful to harass an employee because of that person's sex. Harassment can include sexual harassment, unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. The harasser can be an owner, the victim's manager, supervisor, a manager or supervisor from another location, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

As set forth in Eden Foods' Employee Handbook and related policies, Eden Foods does not tolerate any form of sexual harassment or sex discrimination. Eden Foods employees can complain of discrimination or harassment in the workplace. An employee may contact the Equal Employment Opportunity Commission (EEOC) to file a charge of employment discrimination. Eden Foods employees may also use an anonymous, third-party, 24-hour hotline established by Eden Foods, by calling 833-222-4171.

Under federal law, no manager, officer or supervisor at Eden Foods will retaliate against an employee who makes an internal complaint of discrimination, participates in the investigation of a discrimination complaint or contacts the EEOC or the Michigan Department of Civil Rights about alleged discrimination at Eden Foods.

Questions concerning this notice may be addressed to: Equal Employment
Opportunity Commission
101 W. Ohio St., Suite 1900
Indianapolis, Indiana 46204-4203
Telephone: (800) 669-4000 - TDD (800) 669-6820

This OFFICIAL NOTICE will remain posted for forty-two (42) months from August 25, 2023.